



**PRE-WORKSHOP COMMENTS
OF THE
ASSOCIATION OF APPLIANCE MANUFACTURERS**

Appliance Standards Rulemaking (Docket 98-A&B-1)

October 7, 1999

AHAM appreciate the opportunity to file pre-workshop comments. CEC staff is to be commended for its flexibility in setting up the workshop. Due to the delay in the preparation of the new draft, however, we will be unable to provide detailed, line-by-line comments before the workshop. We can respond, as relevant, to the 14 issues listed in the agenda.

It is inappropriate for staff to state that legal issues will not be discussed or that certain changes proposed by staff will be recommended only if all parties agree to drop other issues. Although the staff appears to be leaning toward making several salutary changes in the draft, a number of proposals are not only bad policy, but preempted by federal law. AHAM will not waive its legal position, although it will be pragmatic in working with staff to resolve outstanding issues. Further, many of the changes proposed in category 1 are well-founded and legally justified and should be adopted regardless of agreement on other issues.

We oppose new requirements or exercise of authority which is different than federal requirements and burdens and undermines interstate commerce, which NAECA is designed in large part to protect. Federal law is clear that the center of appliance standard activities is federal. Issues of testing, reporting, or compliance should be dealt with at DOE or FTC for federally-regulated products. Of course, in applying these principles the devil is in the details.

The following comments relate to issues 1 through 14 as stated in the Notice of State Workshop and Agenda.

1 60-day Notice

For the reasons stated in our prior comments and at the Commission workshop, the 60-day notice is impractical and burdensome and will hinder the ability to manufacture and distribute new products in California and the national marketplace. The proposal to notify the Commission before the model is distributed, similar to DOE requirements, makes more sense.

2 Ten-day Notice on Models No Longer Sold in California

This proposed requirement is unrealistic. It is impossible for manufacturers to know when a model is no longer sold at retail.

3 Marking Date of Manufacture

Most manufacturers provide information on their serial plate on date of manufacture, although it may be done in a code format. Manufacturers do not provide day of manufacture information since that is not known when the serial plate is printed by the manufacturer or by a vendor. Legal issues aside, before manufacturers consider to undertake the burden of switching all their systems of marking, staff should demonstrate why it is important that it have information on date of manufacture and what information it wants.

4 Model Number on Name Plate

Appliance manufacturers will be prepared to discuss this issue with the staff and try to understand what information it seeks and for what purposes.

5 It is inappropriate and preempted by Federal Law for the Commission to approve testing laboratories or requirements for laboratories.

However, there seems to be some indication in the memorandum accompanying the new staff draft that there is an interest in simply asking laboratories to affirmatively state that they are qualified and have undertaken certain testing. This is a more reasonable approach. We do not believe that it is appropriate, however, for the CEC to visit company laboratories. In addition to DOE and FTC's basic authority, we have previously mentioned that the Canadian Standards Association, on behalf of the Canadian government, undertakes these visits.

6 Sampling

We oppose the staff continuing to pursue a different sampling procedure than DOE's. We will continue to explain why this changes the effective stringency of the standard, but we must make clear that this is an action that is preempted by Federal law. California, of course, can obtain samples through its own funds and undertake whatever testing it desires. Such testing cannot determine compliance.

7 45-Day Review

Industry objects to any period of review which will delay the ability of manufacturers to place new products in the California marketplace. We know of no rationale for such review.

8 Federal Exemption of:

We believe that California's enforcement of individual appliance standards for the building code is preempted. We also understand that staff states that in some manner these standards have been applied to the building code for many years. We look forward to discussing how to meet California's interest in providing good energy information to builders and others.

In general, on the second point in Question 10, we object to providing any information to California which is not required to be provided to DOE or FTC. We would be glad to discuss California's interest in specific data items on a case-by-case basis.

13. Microwave Ovens and Ranges and Ovens

DOE and FTC have decided that no standards, labeling or data reporting are required for ranges, ovens or microwave ovens because they use little energy and there was no evidence in the rulemaking that there was a great deal of spread in the energy use or efficiency of the products in the marketplace. The proposal that CEC, for some purpose, would require data to be submitted is not only preempted, but would require manufacturers all over the world to expend millions of dollars to develop facilities or pay laboratory fees.

9 Wine Chillers

Although wine chillers are not a NAECA covered product, we do not believe that it is desirable to undertake the resources for a full scale rulemaking on wine chillers that would have to deal with a variety of technical and economic issues considering how few units are sold in California or nationally and how little energy is used. Further, the test procedure would have to be revised to provide an appropriate measure of energy consumption. It was suggested by one of the Commissioners at the previous workshop that perhaps monitoring could be done, if energy data were collected. Manufacturers will be prepared to discuss with the staff the feasibility of such an approach.

We look forward to meeting with the staff to discuss these issues in as much depth as is possible.

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